

# PAID LEAVE FAQ

Courtesy of the Department of Labor and the Office of Rep. Paul Mitchell (MI-10)

## ***How do employees find out if they can receive sick leave?***

- H.R. 6201 – the second Coronavirus bill, as passed the House – requires employers to provide notice of eligibility to employees.
- The Department of Labor has already guidance on employee expanded paid leave rights under the Coronavirus Response Act. Both employees and employers can review that full guidance at <https://www.dol.gov/agencies/whd/pandemic>.

## ***My small business doesn't have the flexibility or size to provide this added benefit, even if I wanted to. Are the paid leave mandates optional for small businesses?***

- There are exemptions for qualified small businesses.
- The exemptions for small businesses will be for hardship situations, and rules for exemptions have been provided by the Department of Labor.
- Remember that small businesses with less than 50 employees that provide paid sick leave and family and medical leave are eligible to be fully reimbursed through the tax credit.
- Recent joint IRS, Treasury, and Labor guidance suggests the Administration aims to be as flexible as possible in that process. Of note to small businesses the guidance includes:
  - Small Business Exemption
    - Small businesses with fewer than 50 employees will be eligible for an exemption from the leave requirements relating to school closings or childcare unavailability



where the requirements would jeopardize the ability of the business to continue.

- The exemption will be available on the basis of simple and clear criteria that make it available in circumstances involving jeopardy to the viability of an employer's business as a going concern.
- The Department of Labor will provide emergency guidance and rulemaking to clearly articulate this standard.
- Non-Enforcement Period
  - The Department of Labor will be issuing a temporary non-enforcement policy that provides a period of time for employers to come into compliance with the Act.
  - Under this policy, Labor will not bring an enforcement action against any employer for violations of the Act so long as the employer has acted reasonably and in good faith to comply with the Act.
  - Labor will instead focus on compliance assistance during the 30-day period.
  - Employers should carefully review the Department of Labor's full guidance at <https://www.dol.gov/agencies/whd/pandemic>

